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Attorneys for Appellants  
Anthony Thomas and Wendi Thomas

UNITED STATES BANKRUPTCY COURT

# FOR THE DISTRICT OF NEVADA

In re:

BAP No. NV-16-1058

ANTHONY THOMAS; WENDI THOMAS;  
AT EMERALD, LLC;

Bk. No. 3:14-bk-50333-BTB

## Debtors

Adv. No. 3:14-ap-05022-BTB

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ANTHONY THOMAS· WENDI THOMAS·

### Appellants.

VS

KENMARK VENTURES, LLC

## Appellee

**APPELLANT'S AMENDED  
STATEMENT OF ISSUES ON  
APPEAL AND DESIGNATION OF  
RECORD [FED. R. BANKR. PRO.  
8009]**

Pursuant to Federal Rule of Bankruptcy Procedure 8009, Appellants Anthony Thomas and Wendi Thomas (“Appellants”), by and through their legal counsel, Macauley Law Group, P.C., hereby identifies the following issues on appeal (and thereby amends a previous, patently erroneous filing by Appellants in pro se) from the NonDischargeable Judgment After Trial [ECF No. 49] and the Order Granting Motion for Determination [ECF No. 88] (collectively “Judgment”) and designates the record:

1        **A. STATEMENT OF ISSUES ON APPEAL**

2        Appellants present the following issues on appeal:

3        1.        Whether the Bankruptcy Court erred in finding that Appellants' debt to  
4        Appellees was nondischargeable pursuant to Bankruptcy Code Section 523(a)(2) on the grounds  
5        that Appellants' obtained money, property and services, or credit by false pretenses?

6        2.        Whether the Bankruptcy Court erred in finding that Appellants' debt to  
7        Appellees was nondischargeable pursuant to Bankruptcy Code Section 523(a)(2) on the grounds  
8        that Appellants' obtained money, property and services, or credit by use of a false  
9        representation?

10        3.        Whether the Bankruptcy Court erred in finding that Appellants' debt to Appellees  
11        was nondischargeable pursuant to Bankruptcy Code Section 523(a)(2) on the grounds that  
12        Appellants' obtained money, property and services, or credit by actual fraud?

13        4.        Whether the Bankruptcy Court erred in entering the Judgment against Appellant  
14        Wendi Thomas pursuant to Bankruptcy Code Section 523(a)(2), despite the fact that no  
15        evidence was introduced against her at trial in the adversary proceeding that constitutes either  
16        false pretenses, false representation or actual fraud and that judgment was entered against her  
17        for the sole reason that she was the spouse of Appellant Anthony Thomas?

18        5.        Whether the Bankruptcy Court erred in allowing the introduction of irrelevant  
19        evidence relating to Appellant Anthony Thomas' other acts, in violation of Federal Rule of  
20        Evidence 404 and other applicable laws?

21        6.        Whether the Bankruptcy Court erred by sustaining objections to the introduction  
22        of evidence relating to the "beta testing" or other assessments performed on the subject  
23        technology on the grounds that such evidence constituted hearsay, despite the fact that it was  
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1 being introduced, and was probative, as to Appellants' state of mind, and not to prove the truth  
2 of the matter asserted, and therefore was admissible pursuant to Federal Rule of Evidence 801?

3 **B. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

4 Appellants designate the following items for inclusion in the record on appeal (such  
5 designation of pleadings and matters of record includes all exhibits attached or referenced in the  
6 pleadings or matters of record):

7 1. Any and all papers and pleadings on file in the underlying adversary proceeding,  
8 including, but not limited to, the items specifically designated below;

9 2. *Complaint For Damages and To Determine Dischargeability of Debt* [ECF No.  
10 1];

11 3. *Answer to Complaint For Damages and To Determine Dischargeability of Debt*  
12 [ECF No. 11];

13 4. *Scheduling Order* [ECF No. 27];

14 5. *Notice of Hearing* [ECF No. 30];

15 6. *Trial Statement* [ECF No. 35];

16 7. *Order Granting Kenmark Ventures, LLC's Motion For Relief From Stay* [ECF  
17 No. 36];

18 8. *Notice of Hearing* [ECF No. 39];

19 9. *Trial Statement* [ECF No. 40];

20 10. *Request for Judicial Notice* [ECF No. 43];

21 11. *Supplemental Request for Judicial Notice* [ECF No. 44];

22 12. *Notice of Hearing* [ECF No. 47];

23 13. *Nondischargeable Judgment After Trial* [ECF No. 49];

- 1        14. *Motion for Determination of Amount of Attorneys' Fees, Costs and*
- 2        *Disbursements* [ECF No. 50];
- 3        15. *Proposed Bill of Costs* [ECF No. 51];
- 4        16. *Notice of Deficiency* [ECF No. 52];
- 5        17. *Notice of Hearing on Kenmark Ventures, LLC Motion to Fix the Amount of*
- 6        *Attorneys' Fees, costs and Disbursements* [ECF No. 53];
- 7        18. *Notice of Appeal* [ECF No. 56];
- 8        19. *Order Granting Motion for Determination* [ECF No. 88];
- 9        20. Transcript at the hearing held on November 9, 2015;
- 10       21. Transcript at the hearing held on November 10, 2015;
- 11       22. Transcript at the hearing held on December 10, 2015;
- 12       23. Transcript at the hearing held on December 11, 2015;
- 13       24. Transcript at the hearing held on February 8, 2016; and
- 14       25. Appellants reserve the right to include in its additional excerpts of record any
- 15       documents and filings of record in the underlying adversary proceeding as necessary to provide
- 16       adequate information for appellate review, and therefore designates ECF Nos. 1 through 88 not
- 17       otherwise designated herein.
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DATED: June 24, 2016

MACAULEY LAW GROUP  
a Professional Corporation

By: \_\_\_\_\_/s/  
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